

SUBJECT: Biennial comptroller property value study and appraisal district review

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Oliveira, Otto, Bohac, Hartnett, Hilderbran, C. Howard,
P. King, Paxton, Taylor, Villarreal

0 nays

1 absent — Peña

WITNESSES: For — John Kennedy, Texas Taxpayers and Research Association.; Marc Ross, Texas Apartment Association.; (*Registered, but did not testify:* Michael Amezcuita, Metropolitan Council of Appraisal Districts; Justin Bragiel, Texas Hotel and Lodging Association; Daniel Casey, Texas School Alliance; Brent Connett, Texas Conservative Coalition; June Deadrick, Center Point Energy; Doug DuBois, Texas Petroleum Marketers and Convenience Store Association; Aurora Flores-Ortiz, Texas Association of Counties; Bill Hammond Texas Association of Business; Billy Howe, Texas Farm Bureau; Chris Hughes Total Services, Inc.; Brooke Hunt, Texas Association of Realtors; Cheryl Johnson, Galveston County Tax Assessor-Collector's Office; Donald Lee, Texas Conference of Urban Counties; Lance Lively, NFIB Texas; Julie W. Moore, Occidental Petroleum; Ned Muñoz, Texas Association of Builders; Ken Nolan, Dallas CAD and Texas Association of Appraisal Districts.; Royce Poinsett, Exxon Mobil; Jim Robinson, Texas Association of Appraisal Districts.; Cindy Segovia, Bexar County Commissioners; Jason Skaggs, Texas and Southwestern Cattle Raisers Association; Sheryl Swift, Galveston County Tax Assessor-Collector's Office; David Thompson, Houston Independent School District; Donna Warndof, Texas Independent Producers & Royalty Owners Association; Josh Winegarner, Texas Cattle Feeders Association

Against — None

On — (*Registered, but did not testify:* Dick Lavine, Center for Public Policy Priorities)

BACKGROUND: Government Code, sec. 403.302 requires the comptroller of public accounts to conduct an annual study to determine the taxable value of property in each school district in the state to help ensure that state funds for public schools are distributed equitably. A secondary purpose of the study is to measure county appraisal district performance.

The property value study compares a district's appraised value with its market value, as determined by the comptroller's Property Tax Division. A school district's appraised value is determined by the school district's central appraisal district.

In estimating a school district's market value, the Property Tax Division uses generally accepted sampling, valuation, and statistical techniques and bases its estimate on available sales data or, when such data are unavailable, on a third-party appraisal.

Under Government Code, sec. 403.302(c) the comptroller must determine whether the local value of a school district is valid. If a school district's reported value falls within a 5 percent margin of error above or below the district's taxable value as estimated by the Property Tax Division, the value is considered valid. If the value reported by the school district is outside the 5 percent margin of error, the value is considered invalid. The Property Tax Division may use a larger margin of error when the size of sample properties necessary to make the estimate is too small.

Under Tax Code, sec. 5.102, the comptroller conducts a standards review of appraisal districts that produce an appraised value that is off by more than 5 percent. If the appraisal district fails to comply with the recommendations in the report and the comptroller finds that the board of directors of the appraisal district failed to take remedial action within a year of the report, the comptroller must notify each district court in the counties which the appraisal district covers, which must appoint a board of conservators consisting of five members to implement the recommendations. The board of conservators exercises supervision and control over the operations of the appraisal district until the comptroller determines that the school district's reported value is valid. The appraisal district bears the costs of supervision and control of the district by the board of conservators.

If a school district's appraised value is determined to be invalid because its margin of error is greater than 5 percent, taxes are levied on the school

district's appraised value during a grace period of up to two years. During this time, the school district's appraised value also is used to determine state funding under the school finance system. However, if a school district's appraised value is held to be invalid for two consecutive years, the market value determined by the Property Tax Division is substituted for the school district's appraised value when the Texas Education Agency calculates the district's allocation of state funds under school finance formulas.

DIGEST:

HB 8 would change the frequency of the comptroller's property value study from annual to biennial. About half of the state's school districts' property values would be studied each year. The other half would undergo a review of their standards, procedures, and methodology. HB 8 would also establish a Property Value Study Advisory Committee, which would help the comptroller draft rules governing the conduct of the standards and procedures study.

Timing of study. Under Government Code, sec. 403.302, the comptroller would conduct a study:

- at least every two years in each school district for which the most recent study resulted in a determination by the comptroller that the school district's value was valid; and
- each year in a school district for which the most recent study resulted in a determination by the comptroller that the school district's local value was not valid.

In any year in which the comptroller did not conduct a study of a school district, its local value for that year would be considered valid.

Study results. Under Government Code, sec. 403.302 the property value study would use the results of a study of property values produced by an appraisal district to determine the school district's taxable value in a year when the comptroller had studied the property values produced by the appraisal district. The study would follow the same procedures and apply the same margin of error that the comptroller currently uses.

The property value study would use the market value provided by an appraisal district, minus certain tax exemptions, to determine the taxable value of property in a school district in a year when a study of a school district's taxable value had not been done by the property tax division.

Under Government Code, sec. 403.304, a school district, appraisal district, or other governmental entity in this state would have to promptly comply with an oral or written request from the comptroller for information to be used in conducting a study, including information that was confidential under the Open Records Act, the Tax Code, or other Texas laws.

Review of appraisal district procedures. HB 8 would amend Tax Code, sec. 5.102 to establish guidelines for the review of appraisal districts' standards, procedures, and methodology, which would take place at least once every two years. The comptroller would review the governance of each appraisal district, taxpayer assistance provided, and the operating and appraisal standards, procedures, and methodology used by each appraisal district. The review would determine compliance with generally accepted standards, procedures, and methodology. After consultation with the Property Value Study Advisory Committee, the comptroller by rule could establish procedures and standards for conducting and scoring the review.

The comptroller would have the right to copy or print any record or report of the appraisal district as part of the review process. At the conclusion of the review, the comptroller in writing would notify the appraisal district concerning its performance in the review.

Advisory committee. Tax Code, sec. 5.102(m) would establish the comptroller's Property Value Study Advisory Committee, which would include:

- one member of the House of Representatives, appointed by the speaker;
- one member of the Senate, appointed by the lieutenant governor;
- two members who would represent appraisal districts, appointed by the comptroller;
- two members who represent school districts, appointed by the comptroller;
- three members appointed by the comptroller who were residents of this state and were school district taxpayers or had expertise in school district taxation or ratio studies.

Government Code, ch. 2110, which regulates state agency advisory committees, would not apply to the size, composition, or duration of the committee. The comptroller's Technical Advisory Committee would be abolished.

Failing to take remedial action. HB 8 would change the mechanism for conservatorship of appraisal districts that failed to comply with the comptroller's recommendations for improvement. If the appraisal district failed to comply with the recommendations in the report and if the comptroller found that the board of directors of the appraisal district failed to take remedial action reasonably designed to ensure substantial compliance with each recommendation in the report within a year, the comptroller would notify the Board of Tax Professional Examiners, or a successor agency, which would be required to take action necessary to ensure that the recommendations were implemented as soon as practicable. Before February 1 of the year following the year in which the Board of Tax Professional Examiners, or a successor agency, took action to ensure substantial compliance with each recommendation in the report the board would determine, with the assistance of the comptroller, whether the recommendations in the most recent report had been substantially implemented. The presiding officer of the board would notify the chief appraiser and the board of directors of the appraisal district of the board's determination.

Other changes. An "eligible school district" would be one that had a valid local value in the most recent two studies and whose appraisal district was in compliance with the scoring requirement of the comptroller's standards and procedures review.

HB 8 would make conforming changes in the Government Code and Tax Code that would remove references to the property value study being an annual study and would replace them, where appropriate, with references to studies and audits that would be done at least once every two years.

The bill would take effect on January 1, 2010.

**SUPPORTERS
SAY:**

HB 8 would increase accuracy and improve standards and practices of property appraisals in Texas. Under current law, there is no state oversight beyond the property value study, and the current system does not exert enough pressure on appraisal districts to produce accurate and professional valuations.

HB 8 would allow the comptroller to do more focused analyses of school districts' taxable property because the number of appraisal districts' valuations they study in a year would be halved and to more closely examine their standards and procedures. The comptroller's property tax

division staff would be better able to check for highly technical processes that can be used to manipulate values, which often are overlooked in a more general analysis.

Reviews of standards and practices would be especially helpful to appraisal districts in smaller counties that can have difficulty recruiting qualified employees and whose tight budgets make training relatively expensive. These reviews also would help promote professionalism and uniformity in appraisal districts across Texas. One of categories that an appraisal district would be graded on would be taxpayer assistance. The comptroller would look at office practices, the appraisal review process, and other aspects of the office to ensure that appraisal districts were in compliance with best practices. These reviews would help restore confidence in the property tax system.

HB 8 would not encourage appraisal districts to lower their property values. The review of standards and practices would discourage them from undervaluing property in the off years. Further, they would not be able to keep appraisals flat for one year and then catch up on the next because the 10 percent appraisal cap may not provide enough room in the catch up year. In addition, only the appraisal districts that produced valid local values would be eligible to be studied every other year. Those appraisal districts that did a poor job would continue to face annual studies. Finally, those appraisal districts that lowered their values in an off year would open themselves up to additional and costly litigation.

**OPPONENTS
SAY:**

HB 8 would be an excuse for appraisal districts to lower their property values, potentially costing the state more under the school finance formulas that send more state aid to districts with lower property values per student. Because their values would be studied only every other year, they would be tempted to keep the values flat in the off year.

The citizens of Texas already lack confidence in the property-tax appraisals. HB 8 would erode that confidence further if Texans perceived a pattern of no appraisal growth, followed by large jumps in anticipation of the property value study.

HB 8
House Research Organization
page 7

OTHER
OPPONENTS
SAY:

HB 8 would be too much of a change. The bill would be improved by including a sunset provision so that the Legislature could examine several years of data and make changes and improvements or even discontinue the program if necessary.